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OFFICE OF PETITIONS

In re Application of :
Najam, et al. : LETTER REGARDING PTA
Application No. 09/858,324 :
Filed: May 15, 2001 :
Atty. Dkt. No.: 10736/8 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed October 3, 2005. The Office thanks applicants for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 679 days as suggested in the Notice of Allowance.

The request for review is DISMISSED.

The Determination of Patent Term Adjustment mailed November 16, 2004 indicated that at the time of allowance, the above-identified application was entitled to an adjustment of 679 days.

Applicants, however, indicate that the proposed adjustment of 679 days is in error. Applicants indicate that the adjustment should be reduced a total of 175 for applicants' delays.

A review of the application history as of the time of allowance reveals that the application is entitled to an adjustment 679 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 743 days, however, is properly reduced 55 days in accordance with 37 CFR 1.704(b) in connection with the amendment submitted September 30, 2004. The reduction began August 7, 2004, the day after the date that is three months after the date that the non-final Office action was mailed, and ended September 30, 2004, the date the amendment was submitted.

The adjustment of ⁷⁴³~~661~~ days is further reduced an additional nine days in connection with the supplemental response filed March 3, 2005. See, 37 CFR 1.704(c)(8). The reduction began February 23,

2005, the day after the date that the initial response (issue fee payment) was submitted, and ended March 3, 2005, the date the supplemental response was submitted.

As to applicants contention that an additional reduction should be accorded in connection with submission of a request for continued examination, applicants are advised that in accordance with 37 CFR 1.702(b)(1), subject to the provisions of 35 U.S.C. 154(b) and 37 CFR 1.702, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including any time consumed by continued examination of the application under 35 U.S.C. 132(b).

Accordingly, to the extent that at the time of issuance of the patent, the application is entitled to additional adjustment in accordance with 37 CFR 1.702(b), any time consumed as a result of continued examination will be excised from the overall adjustment accorded. Applicants are advised that the issue notification mailed approximately three weeks prior to issuance of the patent will set forth a final determination of overall adjustment.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 679 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
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Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation